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(1) A written report by the attending physician or dentist setting forth the nature and extent of the injury, nature and extent of treatment, any degree of temporary or permanent disability, the prognosis, period of hospitalization, and any diminished earning capacity. If damages for pain and suffering are claimed, a physician's detailed statement specifying the duration of pain and suffering, a listing of drugs administered for pain, and the claimant's general physical condition.

(2) True and correct copies of relevant medical treatment records, laboratory and other tests including X-Rays, MRI, CT scans and other objective evidence of medical evaluation and diagnosis, treatment injury/illness and prognosis.

(3) The claimant may be required to submit to a physical or mental examination by a physician employed by CSB or another Federal agency. On written request, CSB will make available to the claimant a copy of the report of the examining physician employed by the United States, provided the claimant has furnished CSB with the information noted in paragraphs (b)(1) and (b)(2) of this section. In addition, the claimant must have made or agrees to make available to CSB all other physicians' reports previously or thereafter made of the physical or mental condition that is subject matter of his or her claim.

(4) Itemized bills for medical, dental, and hospital expenses incurred, and/or itemized receipts of payment for such expenses.

(5) If the prognosis reveals the necessity for future treatment, a statement of the expected treatment and the expected expense for such treatment.

(6) If a claim is made for loss of time from employment, a written statement from his or her employer showing actual time lost from employment, whether he or she is a full-time or part-time employee, and wages or salary actually lost.

(7) If a claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amount of earnings actually lost.

(8) Any other evidence or information that may have a bearing on either the responsibility of the United States for

the personal injury or the damages claimed.

(c) *Property damage.* In support of a claim for damage to or loss of property, real or personal, the claimant may be required to submit the following evidence or information:

(1) Proof of ownership of the property.

(2) A detailed statement of the amount claimed with respect to each item of property.

(3) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of such repairs.

(4) A statement listing date of purchase, purchase price, and salvage value.

(5) Photographs or video footage documenting the damage, including photographs showing the condition of the property at issue both before and after the alleged negligence or wrongful act or omission.

(6) Any other evidence or information that may have a bearing on either the responsibility of the United States for the damage to or loss of property or the damages claimed.

§ 1620.6 Authority to adjust, determine, compromise, and settle.

The General Counsel of CSB, or his or her designee, is delegated authority to consider, ascertain, adjust, determine, compromise and settle claims under the provision of 28 U.S.C. 2672, and this part. The General Counsel, in his or her discretion, has the authority to further delegate the responsibility for adjudicating, considering, adjusting, compromising and settling any claim submitted under the provision of 28 U.S.C. 2672, and this part, that is based on the alleged negligence or wrongful act or omission of a CSB employee acting in the scope of his or her employment. However, in any case, any offer of compromise or settlement in excess of \$5,000 exercised by the CSB Chairperson or any other lawful designee can only be made after a legal review is conducted by an attorney within the CSB Office of General Counsel.

§ 1620.7 Limitations on authority.

(a) An award, compromise, or settlement of a claim under 28 U.S.C. 2672,

and this part, in excess of \$25,000 can be made only with the prior written approval of the CSB General Counsel and Chairperson, after consultation and approval by the Department of Justice. For purposes of this paragraph a principal claim and any derivative or subrogated claim will be treated as a single claim.

(b) An administrative claim may be adjusted, determined, compromised or settled under this part only after consultation with the Department of Justice when, in the opinion of the General Counsel of CSB, or his or her designee:

(1) A new precedent or a new point of law is involved; or

(2) A question of policy is or may be involved; or

(3) The United States is or may be entitled to indemnity or contribution from a third party and CSB is unable to adjust the third party claim; or

(4) The compromise of a particular claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed \$25,000.

(c) An administrative claim may be adjusted, determined, compromised or settled under 28 U.S.C. 2672 and this part only after consultation with the Department of Justice when CSB is informed or is otherwise aware that the United States or an employee, agent or contractor of the United States is involved in litigation based on a claim arising out of the same incident or transaction.

§ 1620.8 Referral to Department of Justice.

When Department of Justice approval or consultation is required, or the advice of the Department of Justice is otherwise to be requested, under this regulation, the written referral or request will be transmitted to the Department of Justice by the General Counsel of CSB, or his or her designee.

§ 1620.9 Final denial of claim.

Final denial of an administrative claim must be in writing and sent to the claimant, his or her agent, attorney, or other legal representative by certified or registered mail. The notification of final denial may include a

statement of the reasons for the denial. However, it must include a statement that, if the claimant is dissatisfied with the CSB action, he or she may file suit in an appropriate United States District Court not later than 6 months after the date of mailing of the notifications, along with the admonition that failure to file within this 6 month timeframe could result in the suit being time-barred by the controlling statute of limitations. In the event that a claimant does not hear from the CSB after 6 months have passed from the date that the claim was presented, a claimant should consider the claim denied and, if desired, should proceed with filing a civil action in the appropriate U.S. District Court.

§ 1620.10 Action on approved claim.

(a) Payment of a claim approved under this part is contingent on claimant's execution of a Standard Form 95 (Claim for Damage, Injury or Death); a claims settlement agreement; and a Standard Form 1145 (Voucher for Payment), as well as any other forms as may be required. When a claimant is represented by an attorney, the Voucher for Payment will designate both the claimant and his or her attorney as payees, and the check will be delivered to the attorney, whose address is to appear on the Voucher for payment.

(b) Acceptance by the claimant, his or her agent, attorney, or legal representative, of an award, compromise or settlement made under 28 U.S.C. 2672 or 28 U.S.C. 2677 is final and conclusive on the claimant, his or her agent, attorney, or legal representative, and any other person on whose behalf or for whose benefit the claim has been presented, and constitutes a complete release of any and all claims against the United States and against any employee of the Federal Government whose act(s) or omission(s) gave rise to the claim, by reason of the same subject matter. To that end, as noted above, the claimant, as well as any agent, attorney or other legal representative that represented the claimant during any phase of the process (if applicable) must execute a settlement agreement with the CSB prior to payment of any funds.

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PARTS 1621-1699 [RESERVED]

CHAPTER VII—ENVIRONMENTAL PROTECTION
AGENCY AND DEPARTMENT OF DEFENSE;
UNIFORM NATIONAL DISCHARGE STANDARDS
FOR VESSELS OF THE ARMED FORCES

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PART 1700—UNIFORM NATIONAL DISCHARGE STANDARDS FOR VESSELS OF THE ARMED FORCES

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Subpart D—Marine Pollution Control Device (MPCD) Performance Standards

- 1700.14 Marine Pollution Control Device (MPCD) Performance Standards. [Reserved]

AUTHORITY: 33 U.S.C. 1322, 1361.

SOURCE: 64 FR 25134, May 10, 1999, unless otherwise noted.

Subpart A—Scope

§ 1700.1 Applicability.

(a) This part applies to the owners and operators of Armed Forces vessels, except where the Secretary of Defense finds that compliance with this part is not in the interest of the national security of the United States. This part does not apply to vessels while they are under construction, vessels in drydock, amphibious vehicles, or vessels under the jurisdiction of the Department of Transportation other than those of the Coast Guard.

(b) This part also applies to States and political subdivisions of States.

§ 1700.2 Effect.

(a) This part identifies those discharges, other than sewage, incidental to the normal operation of Armed Forces vessels that require control within the navigable waters of the United States and the waters of the contiguous zone, and those discharges that do not require control. Discharges requiring control are identified in § 1700.4. Discharges not requiring control are identified in § 1700.5. Federal standards of performance for each required Marine Pollution Control Device are listed in § 1700.14. This part is not applicable beyond the contiguous zone.

(b) This part prohibits States and their political subdivisions from adopting or enforcing State or local statutes or regulations controlling the discharges from Armed Forces vessels listed in §§ 1700.4 and 1700.5 according to the timing provisions in § 1700.6, except to establish a no-discharge zone by State prohibition in accordance with § 1700.9, or to apply for a no-discharge zone by EPA prohibition in accordance with § 1700.10. This part also provides a mechanism for States to petition the Administrator and the Secretary to review a determination of whether a discharge requires control, or to review a Federal standard of performance for a Marine Pollution Control Device, in accordance with §§ 1700.11 through 1700.13.

§ 1700.3 Definitions.

Administrator means the Administrator of the United States Environmental Protection Agency or that person's authorized representative.

Armed Forces vessel means a vessel owned or operated by the United States Department of Defense or the United States Coast Guard, other than vessels that are time or voyage chartered by the Armed Forces, vessels of the U.S. Army Corps of Engineers, or vessels that are memorials or museums.

Discharge incidental to the normal operation of a vessel means a discharge, including, but not limited to: graywater, bilgewater, cooling water, weather deck runoff, ballast water, oil water

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separator effluent, and any other pollutant discharge from the operation of a marine propulsion system, shipboard maneuvering system, crew habitability system, or installed major equipment, such as an aircraft carrier elevator or a catapult, or from a protective, preservative, or absorptive application to the hull of a vessel; and a discharge in connection with the testing, maintenance, and repair of any of the aforementioned systems whenever the vessel is waterborne, including pierside. A discharge incidental to normal operation does not include:

- (1) Sewage;
- (2) A discharge of rubbish, trash, or garbage;
- (3) A discharge of air emissions resulting from the operation of a vessel propulsion system, motor driven equipment, or incinerator;
- (4) A discharge that requires a National Pollutant Discharge Elimination System (NPDES) permit under the Clean Water Act; or
- (5) A discharge containing source, special nuclear, or byproduct materials regulated by the Atomic Energy Act.

Environmental Protection Agency, abbreviated EPA, means the United States Environmental Protection Agency.

Marine Pollution Control Device, abbreviated MPCD, means any equipment or management practice installed or used on an Armed Forces vessel that is designed to receive, retain, treat, control, or discharge a discharge incidental to the normal operation of a vessel, and that is determined by the Administrator and Secretary to be the most effective equipment or management practice to reduce the environmental impacts of the discharge consistent with the considerations in Clean Water Act section 312(n)(2)(B).

No-discharge zone means an area of specified waters established pursuant to this regulation into which one or more specified discharges incidental to the normal operation of Armed Forces vessels, whether treated or untreated, are prohibited.

Secretary means the Secretary of the United States Department of Defense or that person's authorized representative.

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United States includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands.

Vessel includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on navigable waters of the United States or waters of the contiguous zone, but does not include amphibious vehicles.

Subpart B—Discharge Determinations

§ 1700.4 Discharges requiring control.

For the following discharges incidental to the normal operation of Armed Forces vessels, the Administrator and the Secretary have determined that it is reasonable and practicable to require use of a Marine Pollution Control Device for at least one class of vessel to mitigate adverse impacts on the marine environment:

(a) Aqueous Film-Forming Foam: the firefighting foam and seawater mixture discharged during training, testing, or maintenance operations.

(b) Catapult Water Brake Tank & Post-Launch Retraction Exhaust: the oily water skimmed from the water tank used to stop the forward motion of an aircraft carrier catapult, and the condensed steam discharged when the catapult is retracted.

(c) Chain Locker Effluent: the accumulated precipitation and seawater that is emptied from the compartment used to store the vessel's anchor chain.

(d) Clean Ballast: the seawater taken into, and discharged from, dedicated ballast tanks to maintain the stability of the vessel and to adjust the buoyancy of submarines.

(e) Compensated Fuel Ballast: the seawater taken into, and discharged from, ballast tanks designed to hold both ballast water and fuel to maintain the stability of the vessel.

(f) Controllable Pitch Propeller Hydraulic Fluid: the hydraulic fluid that discharges into the surrounding seawater from propeller seals as part of normal operation, and the hydraulic fluid released during routine maintenance of the propellers.

(g) Deck Runoff: the precipitation, washdowns, and seawater falling on the weather deck of a vessel and discharged overboard through deck openings.

(h) Dirty Ballast: the seawater taken into, and discharged from, empty fuel tanks to maintain the stability of the vessel.

(i) Distillation and Reverse Osmosis Brine: the concentrated seawater (brine) produced as a byproduct of the processes used to generate freshwater from seawater.

(j) Elevator Pit Effluent: the liquid that accumulates in, and is discharged from, the sumps of elevator wells on vessels.

(k) Firemain Systems: the seawater pumped through the firemain system for firemain testing, maintenance, and training, and to supply water for the operation of certain vessel systems.

(l) Gas Turbine Water Wash: the water released from washing gas turbine components.

(m) Graywater: galley, bath, and shower water, as well as wastewater from lavatory sinks, laundry, interior deck drains, water fountains, and shop sinks.

(n) Hull Coating Leachate: the constituents that leach, dissolve, ablate, or erode from the paint on the hull into the surrounding seawater.

(o) Motor Gasoline and Compensating Discharge: the seawater taken into, and discharged from, motor gasoline tanks to eliminate free space where vapors could accumulate.

(p) Non-Oily machinery wastewater: the combined wastewater from the operation of distilling plants, water chillers, valve packings, water piping, low- and high-pressure air compressors, and propulsion engine jacket coolers.

(q) Photographic Laboratory Drains: the laboratory wastewater resulting from processing of photographic film.

(r) Seawater Cooling Overboard Discharge: the discharge of seawater from a dedicated system that provides non-contact cooling water for other vessel systems.

(s) Seawater Piping Biofouling Prevention: the discharge of seawater containing additives used to prevent the growth and attachment of biofouling organisms in dedicated seawater cooling systems on selected vessels.

(t) Small Boat Engine Wet Exhaust: the seawater that is mixed and discharged with small boat propulsion engine exhaust to cool the exhaust and quiet the engine.

(u) Sonar Dome Discharge: the leaching of antifoulant materials into the surrounding seawater and the release of seawater or freshwater retained within the sonar dome.

(v) Submarine Bilgewater: the wastewater from a variety of sources that accumulates in the lowest part of the submarine (i.e., bilge).

(w) Surface Vessel Bilgewater/Oil-Water Separator Effluent: the wastewater from a variety of sources that accumulates in the lowest part of the vessel (the bilge), and the effluent produced when the wastewater is processed by an oil water separator.

(x) Underwater Ship Husbandry: the materials discharged during the inspection, maintenance, cleaning, and repair of hulls performed while the vessel is waterborne.

(y) Welldeck Discharges: the water that accumulates from seawater flooding of the docking well (welldeck) of a vessel used to transport, load, and unload amphibious vessels, and from maintenance and freshwater washings of the welldeck and equipment and vessels stored in the welldeck.

§ 1700.5 Discharges not requiring control.

For the following discharges incidental to the normal operation of Armed Forces vessels, the Administrator and the Secretary have determined that it is not reasonable or practicable to require use of a Marine Pollution Control Device to mitigate adverse impacts on the marine environment:

(a) Boiler Blowdown: the water and steam discharged when a steam boiler is blown down, or when a steam safety valve is tested.

(b) Catapult Wet Accumulator Discharge: the water discharged from a catapult wet accumulator, which stores a steam/water mixture for launching aircraft from an aircraft carrier.

(c) Cathodic Protection: the constituents released into surrounding water from sacrificial anode or impressed

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current cathodic hull corrosion protection systems.

(d) Freshwater Lay-up: the potable water that is discharged from the seawater cooling system while the vessel is in port, and the cooling system is in lay-up mode (a standby mode where seawater in the system is replaced with potable water for corrosion protection).

(e) Mine Countermeasures Equipment Lubrication: the constituents released into the surrounding seawater by erosion or dissolution from lubricated mine countermeasures equipment when the equipment is deployed and towed.

(f) Portable Damage Control Drain Pump Discharge: the seawater pumped through the portable damage control drain pump and discharged overboard during testing, maintenance, and training activities.

(g) Portable Damage Control Drain Pump Wet Exhaust: the seawater mixed and discharged with portable damage control drain pump exhaust to cool the exhaust and quiet the engine.

(h) Refrigeration and Air Conditioning Condensate: the drainage of condensed moisture from air conditioning units, refrigerators, freezers, and refrigerated spaces.

(i) Rudder Bearing Lubrication: the oil or grease released by the erosion or dissolution from lubricated bearings that support the rudder and allow it to turn freely.

(j) Steam Condensate: the condensed steam discharged from a vessel in port, where the steam originates from port facilities.

(k) Stern Tube Seals and Underwater Bearing Lubrication: the seawater pumped through stern tube seals and underwater bearings to lubricate and cool them during normal operation.

(l) Submarine Acoustic Countermeasures Launcher Discharge: the seawater that is mixed with acoustic countermeasure device propulsion gas following a countermeasure launch that is then exchanged with surrounding seawater, or partially drained when the launch assembly is removed from the submarine for maintenance.

(m) Submarine Emergency Diesel Engine Wet Exhaust: the seawater that is mixed and discharged with submarine emergency diesel engine exhaust to cool the exhaust and quiet the engine.

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(n) Submarine Outboard Equipment Grease and External Hydraulics: the grease released into the surrounding seawater by erosion or dissolution from submarine equipment exposed to seawater.

Subpart C—Effect on States

§ 1700.6 Effect on State and local statutes and regulations.

(a) After the effective date of a final rule determining that it is not reasonable and practicable to require use of a Marine Pollution Control Device regarding a particular discharge incidental to the normal operation of an Armed Forces vessel, States or political subdivisions of States may not adopt or enforce any State or local statute or regulation, including issuance or enforcement of permits under the National Pollutant Discharge Elimination System, controlling that discharge, except that States may establish a no-discharge zone by State prohibition (as provided in § 1700.9), or apply for a no-discharge zone by EPA prohibition (as provided in § 1700.10).

(b)(1) After the effective date of a final rule determining that it is reasonable and practicable to require use of a Marine Pollution Control Device regarding a particular discharge incidental to the normal operation of an Armed Forces vessel, States may apply for a no-discharge zone by EPA prohibition (as provided in § 1700.10) for that discharge.

(2) After the effective date of a final rule promulgated by the Secretary governing the design, construction, installation, and use of a Marine Pollution Control Device for a discharge listed in § 1700.4, States or political subdivisions of States may not adopt or enforce any State or local statute or regulation, including issuance or enforcement of permits under the National Pollutant Discharge Elimination System, controlling that discharge except that States may establish a no-discharge zone by State prohibition (as provided in § 1700.9), or apply for a no-discharge zone by EPA prohibition (as provided in § 1700.10).

(c) The Governor of any State may submit a petition requesting that the

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Administrator and Secretary review a determination of whether a Marine Pollution Control Device is required for any discharge listed in §1700.4 or §1700.5, or review a Federal standard of performance for a Marine Pollution Control Device.

NO-DISCHARGE ZONES

§ 1700.7 No-discharge zones.

For this part, a no-discharge zone is a waterbody, or portion thereof, where one or more discharges incidental to the normal operation of Armed Forces vessels, whether treated or not, are prohibited. A no-discharge zone is established either by State prohibition using the procedures in §1700.9, or by EPA prohibition, upon application of a State, using the procedures in §1700.10.

§ 1700.8 Discharges for which no-discharge zones can be established.

(a) A no-discharge zone may be established by State prohibition for any discharge listed in §1700.4 or §1700.5 following the procedures in §1700.9. A no-discharge zone established by a State using these procedures may apply only to those discharges that have been preempted from other State or local regulation pursuant to §1700.6.

(b) A no-discharge zone may be established by EPA prohibition for any discharge listed in §1700.4 or §1700.5 following the procedures in §1700.10.

§ 1700.9 No-discharge zones by State prohibition.

(a) A State seeking to establish a no-discharge zone by State prohibition must send to the Administrator the following information:

(1) The discharge from §1700.4 or §1700.5 to be prohibited within the no-discharge zone.

(2) A detailed description of the waterbody, or portions thereof, to be included in the prohibition. The description must include a map, preferably a USGS topographic quadrant map, clearly marking the zone boundaries by latitude and longitude.

(3) A determination that the protection and enhancement of the waters described in paragraph (a)(2) of this section require greater environmental

protection than provided by existing Federal standards.

(4) A complete description of the facilities reasonably available for collecting the discharge including:

(i) A map showing their location(s) and a written location description.

(ii) A demonstration that the facilities have the capacity and capability to provide safe and sanitary removal of the volume of discharge being prohibited in terms of both vessel berthing and discharge reception.

(iii) The schedule of operating hours of the facilities.

(iv) The draft requirements of the vessel(s) that will be required to use the facilities and the available water depth at the facilities.

(v) Information showing that handling of the discharge at the facilities is in conformance with Federal law.

(5) Information on whether vessels other than those of the Armed Forces are subject to the same type of prohibition. If the State is not applying the prohibition to all vessels in the area, the State must demonstrate the technical or environmental basis for applying the prohibition only to Armed Forces vessels. The following information must be included in the technical or environmental basis for treating Armed Forces vessels differently:

(i) An analysis showing the relative contributions of the discharge from Armed Forces and non-Armed Forces vessels.

(ii) A description of State efforts to control the discharge from non-Armed Forces vessels.

(b) The information provided under paragraph (a) of this section must be sufficient to enable EPA to make the two determinations listed below. Prior to making these determinations, EPA will consult with the Secretary on the adequacy of the facilities and the operational impact of any prohibition on Armed Forces vessels.

(1) Adequate facilities for the safe and sanitary removal of the discharge are reasonably available for the specified waters.

(2) The prohibition will not have the effect of discriminating against vessels of the Armed Forces by reason of the ownership or operation by the Federal